

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

IN RE: LUMBER LIQUIDATORS CHINESE-MANUFACTURED FLOORING PRODUCTS MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION	MDL No. 15 md-02627 (AJT/TRJ)
THIS DOCUMENT RELATES TO: ALL CASES	

**REPORT ON PERSONAL INJURY AND OBJECTIONS TO APPLICATION OF THE
SUMMARY JUDGMENT RULING**

On June 20, 2017, this Court granted in part and denied in part Defendant Lumber Liquidator’s motion for summary judgment. ECF No. 1126. In Pretrial Order No. 1, this Court noted that it “intends to decide such motions [such as summary judgment] on a representative basis and apply its decision on a representative motion to similar motions in all other cases, except to the extent that different cases or classes of cases present materially different legal issues.” ECF No. 10 at 20. On July 11, 2017, the Court asked Lead Counsel to compile a report of those Plaintiffs who would object to applying the summary judgment ruling to their cases and to summarize the basis of any objections. ECF No. 1144.

Lead Counsel has communicated with counsel for plaintiffs with filed cases in the Formaldehyde MDL (2627). The vast majority of counsel had no objections to the Court’s summary judgment ruling (ECF No. 1126) applying to their cases. Of the small set that objected, most objected because their cases included personal injury claims and therefore seek consequential and other damages that the Representative Complaint did not. ECF No. 1126 at 8 n. 7 (noting no consequential damages sought in FARC) and 12 (noting none of the Plaintiffs in the FARC alleged any illness or medical injury). Furthermore, many of these personal injury

actions also contained products liability or strict liability claims. As such, these cases present materially different factual and legal issues than the First Amended Representative Complaint, which seeks economic damages based upon fraud, consumer fraud, and breach of warranty causes of action. Finally, two economic damage Plaintiffs have objected to application of the summary judgement order, because they allege their clients did actually rely on the Defendant's representations regarding CARB 2 compliance. The Court found that none of the Plaintiffs in the FARC had relied. As such, these Plaintiffs assert this is a materially different factual issue. The cases in which an objection is asserted are as follows:

PLAINTIFF	COUNSEL	ALLEGED INJURY	OBJECTION TO COVERAGE BY THE SUMMARY JUDGMENT RULING
<i>George Sanchez</i> (OH), 1:71-cv-02083	Zach Murry	Hives lasting a year.	Different causes of action and damages sought (personal injury).
<i>Deanna Barrios</i> (LA), 1:16-cv-02790	Shawn Reed	Respiratory difficulties, obstructive lung disease, sinus injury requiring multiple surgeries.	Different causes of action and damages sought (redhibition claim more expansive than consumer fraud or warranty; personal injury).
<i>Anton Schwartz</i> (deceased) and <i>Brenda Schwartz</i> (LA), 1:16-cv-02790	Shawn Reed	Respiratory difficulties, headaches, fear of cancer, emotional distress, loss of consortium.	Different causes of action and damages sought (personal injury). Different facts (asserting individual reliance on representations).
<i>Peter Bednarski</i> and on behalf of his minor children (IN), 1:17-cv-02800	Shawn Reed	Severe respiratory illness, headaches.	Different causes of action and damages sought (personal injury).
<i>Lauryn Holloway</i> (CA), 1:15-cv-02759	Chuck Marshall	Economic damages.	Different facts (asserting individual reliance on representations).
<i>Russell and Wanda Mitchem</i> (WV),	Marvin Masters	Illness, pain and suffering, loss of consortium.	Different causes of action and damages sought

1:17-cv-02797			(personal injury; medical monitoring; consequential damages; products liability).
<i>Thomas and Barbara Balderson</i> (WV), 1:17-cv-02798	Marvin Masters	Illness, emotional distress, pain and suffering.	Different causes of action and damages sought (personal injury; medical monitoring; products liability).
<i>JoAnn Adaska and Richard Grisko</i> (IL), 1:16-cv-02784	Joe Lauer	Respiratory injury.	Different causes of action and damages sought (personal injury).
<i>Sol Hesney</i> (NJ), 1:16-cv-02793	Jay Brody	Sinus cancer.	Different causes of action and damages sought (personal injury and products liability).
<i>Amanda Casali and Christine Pettijohn</i> (TX), 1:15-cv-00890	Patrick Luff	Respiratory illness, rashes.	Different causes of action and damages sought (personal injury).
<i>Heather and Colton Morris</i> (MT), 1:16-cv-02791	Brian Miller	Respiratory illness, coughing, rashes.	Different causes of action and damages sought (personal injury). Different facts (asserting individual reliance on representations).
<i>Dwight Spence and family</i> (NV), 2:17-cv-00997	Zachariah Parry	Respiratory illness.	Different causes of action and damages sought (personal injury and consequential damages).
<i>Derek Griffiths</i> (CA), 1:15-cv-02741	Mark Uyeno	Economic damages.	Different facts (asserting individual reliance on representations).
<i>Dana LeMaster</i> (AL), 1:17-cv-02795	Tom Bowron	Activation of her previously asymptomatic systemic lupus erythematosus (SLE); conditions secondary to SLE such as anti-phospholipid syndrome.	Different causes of action and damages sought (strict products liability and personal injury).
<i>Jeff and Jessica Gilman</i> (WA), 1:16-cv-02783	Kevin Sullivan	Severe respiratory illness, headaches.	Different causes of action and damages sought (strict products liability and personal injury).
<i>Angel and Amanda Molina and</i>	Craig Silverman	Economic damages.	Different facts (asserting individual reliance on

<i>Bradley and Hope Copenheaver</i> (MD), 1:15-cv-02696			representations).
<i>David and Kathy Thomas</i> (GA), 1:17-cv-02808	Neil Edwards	Inflammatory follicular bronchiolitis, gastroesophageal reflux disease (GERD); other respiratory illness.	Different causes of action and damages sought (products liability and personal injury).
<i>Justine and Alfred Russo</i> (WA) [suit to be filed on August 1, 2017]	Kevin Sullivan	Respiratory problems, wheezing, coughing.	Different causes of action and damages sought (personal injury and products liability).
<i>Sung and Carolyn Chloe</i> (GA) [suit to be filed on August 10, 2017]	Neil Edwards	Hypersensitivity pneumonitis; lower lobe bronchial wall thickening; endobronchial opacification; and gastroesophageal reflux disease (GERD); other respiratory problems.	Different causes of action and damages sought (products liability and personal injury).

Dated: July 31, 2017

Respectfully submitted,

/s/ Steven J. Toll

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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2017, a true and correct copy of the foregoing was filed electronically with the clerk of this Court using the CM/ECF system, and in accordance with Local Rules and the procedures adopted in the Initial Order and Pretrial Order No. 1A. This filing will cause a copy of the same to be served, via a Notice of Electronic Filing, upon counsel of record in this matter who has consented to electronic service.

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